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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/796,851	Applicant(s) ANGELL ET AL.
	Examiner M. Sager	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 October 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-26 and 28-44 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-26 and 28 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/06/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/17/08 has been entered.

Priority

2. The later-filed application must be an application for a patent for an invention that is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed grandparent application, Application No. 08844764, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. Grand-parent application no. 08844764, now U.S. Patent No. 5938200, fails to provide adequate support or enablement for any pending claim; thus, priority of instant application is as of the filing date of parent 09342150, now U.S. Patent No. 6702672, which was filed June 29, 1999. It is noted that Patentee filed a certificate of correction in parent application 09342150 that altered continuation data from 08844794 to 08844764 and any change of continuation data must be provided within parent file. Applicant is reminded of timing of claiming priority. 37 CFR 1.78.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-26 and 28-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, fails to adequately support claimed invention regarding the wireless transmission of encryption code as claimed by transmit an encryption code to the wireless gaming device prior to the wagering information being entered by the player (clm 1-20), transmitting an encryption code to the wireless gaming device (clm 21-26), using an encryption code received by the wireless gaming device before the wireless gaming device prior to the entry of the wagering information (clm 28-43), and transmitting an encryption code to the wireless device prior to the entry of wagering information by the player (clm 44) since the disclosure teaches that the encryption code is stored in the player device and changing the code by direct connection (paras 39-40 of PG PUB 20050070358) such that there is no wireless transmitting of encryption code timed prior to wagering by player. Thus, the original disclosure fails to provide adequate support to permit public notice regarding claimed wireless transmittance of encryption code to wireless player device as claimed.

5. Claims 1-26 and 28-44 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for wired transmittal of encryption code to player device,

does not reasonably provide enablement for wireless transmittance of encryption code to player device. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims. Essentially, the specification states in part in paragraphs 39-41 of PG PUB 20050070358 that the wireless gaming device may store an encryption key, the encryption key 32 is preferably stored in EEPROM 34 and that the encryption key 32 stored in EEPROM 34 may be updated and changed for each player who receives wireless gaming device 20 *by directly connecting device 20 to encoding and decoding circuitry 82 in terminal 50 through port 84.* Thus, there is no wireless transmittal of encryption code disclosed to provide public notice.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-26 and 28-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Where the transmission claimed is wireless, it is unclear what device is configured to send a signal by radio or television waves so as to transmit an encryption code to the wireless gaming device prior to the wagering information being entered by the player (clm 1-20), transmitting an encryption code to the wireless gaming device (clm 21-26), using an encryption code received by the wireless gaming device before the wireless gaming device prior to the entry of the wagering information (clm 28-43), and transmitting an encryption code to the wireless device prior to the entry of wagering information by the player (clm 44) since the disclosure teaches that the encryption code is stored in the player device and can change the code

by direct connection via port (paras 39-41 of PG PUB 20050070358) such that there is no wireless transmitting of encryption code timed prior to wagering by player.

Claim Rejections - 35 USC § 102

8. Claims 1, 3-6, 8-12, 15, 17-18, 20-21, 23-24, 26, 38-41 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (WO 96/00950). This holding is maintained from prior action for cited claims, as amended, and is reiterated below with consideration of amended language. Response to applicants' argument is provided below and incorporated herein. As best understood with broadest reasonable interpretation of claims, Walker discloses a system, wireless gaming device and method teaching claimed steps/features (abstract, 3:2-13:32, figs. 1-15D) including a wireless hand held gaming device (ref 14, 82, PDA, laptop), comprising an id code identifying the wireless gaming device and uniquely associated with player and/or gaming device (abstract, 3:2-13:32, 16:21-18:17, 19:2-21:22, 23:11-22, 24:15-26, 25:3-26:34, 33:9-33:32, 34:24-35:9, ref 32, 34), entry apparatus (abstract, 3:2-13:32, 15:22-16:18, figs. 1-15D, ref 20, 86) configured to receive wagering information entered by a player such as a request or command and data to form a bet comprising a string of characters (abstract, 3:2-13:32, 22:9-27, 25:37-26:34, 29:18-41:23, FIGS, 1-15D), a transmitter configured to transmit a signal by radio frequency (PDA or laptop inherently transmit/receive by radio) including both the player's wager information and the identification code in an encrypted form (abstract, 3:2-13:32, 16:21-18:17, 19:2-21:22, 23:11-22, 24:15-26, 25:3-26:34, 33:9-33:32, 34:24-35:9, 37:30-41:13, figs 1-15D), a device configured to transmit an encryption code to the wireless gaming device prior to the wagering information being entered by the player (abstract, 3:2-13:32, 16:21-18:17, 19:2-21:22, 23:11-22, 24:15-26, 25:3-26:34, 33:9-33:32, 34:24-35:9, figs 1-15D, esp 4 and 8), the wireless

gaming device configured to encrypt the signal using the encryption code prior to the transmission of the code (abstract, 3:2-13:32, 16:21-18:17, 19:2-21:22, 23:11-22, 24:15-26, 25:3-26:34, 33:9-33:32, 34:24-35:9, 37:30-41:13, figs. 1-15D), wager amount register and account balance register (sic, Fig 1A-1B shows wager and total amount available displayed on screen and thus, memory such as register is inherent for storing wager amount and amount available, account balance), a card reader/writer including smart card (4:29, ref 91), an encryption key and a decryption key (supra), a database (sic, ref 16), including storing in a chip or ROM an identifier corresponding to the identification code (17:32-18:25, 21:4-7, 24:15-26, 38:9-26, ref. 32, 34) further comprising steps providing the wireless gaming device (15:24-28, 16:4-19:16, 29:18-25, 37:19-24) comprising an entry apparatus (ref 86) for entering wagering information (supra), a transmitter (sic), an identification code stored on the wireless gaming device for identifying the wireless gaming device (3:2-13:32, 16:21-18:17, 19:2-21:22, 23:11-22, 24:15-26, 25:3-26:34, 33:9-33:32, 34:24-35:9, ref. 32, 34), entering the wagering information into the entry apparatus (25:3-26:34, 30:15-31:4), transmitting the identification code and the wagering information in an encrypted form (sic), receiving and decrypting the transmitted identification code and wagering information (33:6-36), a display for displaying the wagering information (fig. 1A-1B, ref 18, 84), receiving monetary tender (26:35-29:28, 35:5-9), establishing an account having account balance (29:18-28, 34:24-35:9), associating a wireless device having a stored identification code stored on the wireless gaming device (18:18-25, 24:15-26, 38:9-26), providing the player the wireless device (sic), receiving the identification code and wagering information (32:18-33:36), registering the players wager in the database based on the wagering information and the identification code (24:15-26:34, 29:35-31:4, 34:24-36:8, fig 1-15D, esp. 4, 7C, 9), debiting the

account balance (30:15-31:23, fig. 7A), determining if the player wager wins a prize, and crediting account balance (30:15-31:23, fig. 7A), receiving the wireless device from player and tendering money to player based on the account balance (36:9-37:29, 40:13-41:23).

Claim Rejections - 35 USC § 103

9. Claim 7 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Walker. This holding is maintained from prior action for cited claims, as amended, and is reiterated below with consideration of amended language. Response to applicants' argument is provided below and incorporated herein.

Regarding claim 7, Walker (22:9-27, 24:15-26:34, 29:35-31:4, 34:24-36:8, fig 1-15D, esp. 4, 7C, 9) and Lupton (abstract, 6:3-9:26, fig. 1-5, 7-8) each discloses claimed invention (supra) but does not clearly discuss string of characters such as selected wager elements being hexadecimal digits. An inventor does not need to discuss in their specification that which is old or conventional and preferably omits from their disclosure that which is conventional. Such is the case with Walker in that Walker does not disclose hexadecimal digits since it is conventional at least due to program language read by wireless device compiler, i.e. processor, translates inputs and program to assembler language which is in hexadecimal digits that is further translated to binary code of machine language. Also, wagering information entry such as 1000 is a 4-digit hexadecimal character string in Walker. Alternatively, the form of characters being hexadecimal (0-9 and A-F), or base sixteen, fails to patentably distinguish over Walker since Walker at least since it is notoriously well known for computer compilers/processor to translate program language to assembler language which uses hexadecimal digits prior to translating to binary or machine code. This is hornbook engineering or basic computer programming. Regarding claim 19, Walker

(16:21-35, 38:18-25, ref 23) discloses claimed system including a memory storing identification code (sic) including ROM chip. An inventor does not need to discuss in their specification that which is old or conventional and preferably omits from their disclosure that which is conventional. Such is the case with Walker in that Walker does not state ROM chip or memory is EPROM; however, such chips were conventional. As evidence only, Bergeron (4764666) or Sarbin (5179517) each discloses a memory storing an identification code where the memory is EPROM for ease of reprogramming data stored in ROM. Walker also uses smart card (sic). Alternatively, it would have been obvious to an artisan at a time prior to the invention to add EPROM to Walker to permit ease of reprogramming data stored in ROM.

10. Claims 13, 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Franchi (5770533). This holding is maintained from prior action for cited claims, as amended, and is reiterated below with consideration of amended language. Response to applicants' argument is provided below and incorporated herein. Walker discloses claimed features of invention (sic) including a display and wireless communication except LCD (claim 13) and infrared signals (claim 16, 25). Franchi (15:26-16:22) discloses a wireless handheld gaming device comprising an LCD screen and infrared signals. However, an LCD for displaying and infrared signals for communicating is each notoriously well known in gaming. Infrared signals permit wireless remote direct communication; while, LCD permits easy to read display. Franchi is analogous art at least due to either being in the field of applicant's endeavor or, is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an

artisan at a time prior to the invention to add LCD and infrared signals as notoriously well known or as taught by Franchi to Walker to provide an easy to read display and to provide wireless remote direct communication.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker each in view of Pease (5326014). This holding is maintained from prior action for cited claims, as amended, and is reiterated below with consideration of amended language. Response to applicants' argument is provided below and incorporated herein. Walker discloses claimed features but lacks disclosing bicolor light emitting diode. Use of LED as an indicator is well known in gaming. Pease disclose use of tricolor LED as an indicator (9:55-10:55). It is known in gaming to provide indication of either game state or device operability state. Thus, it would have been obvious to an artisan at a time prior to the invention to add bicolor LED as taught by Pease to Walker to provide an indicator of operability or game state so as to alert user. Also, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). “[A]pparatus claims cover what a device is, not what a device does.” Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). In this instance, the prior art of Walker in view of Pease teaches use of bicolor LED

(i.e. structure) to provide an indicator to user of either game state or operability state of device. Further, a claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was “for mixing flowing developer material” and the body of the claim recited “means for mixing ..., said mixing means being stationary and completely submerged in the developer material”. The claim was rejected over a reference that taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.). Although, Pease provides use of LED to indicate another facet of game play, this does not teach away from claimed invention. It is known in gaming to provide indication of either game state or device operability state. The claimed ‘to indicate separately that the wagering information has been entered and wagering information has been transmitted’ is a functional recitation pertaining to operational status indicator of device. The standard of patentability remains as what the prior art taken as a whole would have suggested to an artisan at a time prior to the invention. In this instance, Walker in view of Pease taken at a time prior to the invention suggests to an artisan a wireless gaming device including a bicolor LED to provide an indication of either game state or operability status to user.

12. Claims 2, 22, 28-34 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Woodfield (EP 0649102). This holding is maintained from prior action

for cited claims, as amended, and is reiterated below with consideration of amended language.

Response to applicants' argument is provided below and incorporated herein. Walker discloses claimed system, method and device (*supra*) including encryption and decryption of transmitted signals except periodically polls the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the receiver (claim 2), periodically polling the wireless gaming device to determine whether the player has entered wagering information (claim 22), the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered (claim 28) and the wireless gaming device is periodically polled by the receiver (claim 29). Woodfield discloses system, device and method for transmitting wagering information while commanding placing of bets (4:4-15:24, figs. 1-4) comprising a wireless gaming device that includes an identification code (7:15-16), entry apparatus (6:6-18, refs. 15-16), and transmitter (18, 9), a receiver (4, 7, 8, 27) for receiving identification code and wagering information (15:16-24), the receiver polling the wireless gaming device (7:30-8:5, 15:16-24) to determine whether the player has entered wagering data to be transmitted. Woodfield teaches claimed polling by a receiver (7:15-8:5, 15:16-24) so as to conserve power (7:30-43) to include periodically polls the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the receiver (7:15-8:5, 15:16-24) periodically polling the wireless gaming device to determine whether the player has entered wagering information (sic), the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered (sic) and the wireless gaming device is periodically polled by the receiver (*supra*) such that a receiver periodically polls the wireless gaming device to determine if new data has been entered where

data is environment of use such as wagering and Woodfield clearly states use of wireless device to place bets on sporting events, i.e. wagering. Thus, it would have been obvious to an artisan at a time prior to the invention to add periodically polls the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the receiver, periodically polling the wireless gaming device to determine whether the player has entered wagering information, the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered and the wireless gaming device is periodically polled by the receiver as taught by Woodfield to Walker to conserve power. Also, a claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was “for mixing flowing developer material” and the body of the claim recited “means for mixing ... , said mixing means being stationary and completely submerged in the developer material”. The claim was rejected over a reference that taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.). Further, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the

Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also *In re Swinchart*, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). “[A]pparatus claims cover what a device is, not what a device does.” *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). The standard of patentability is what the prior art taken as a whole suggests to an artisan at a time prior to the invention. In this case, when Walker in view of Woodfield is taken as a whole at a time prior to the invention, the combination suggests to an artisan a wireless gaming system, method or device comprising a wireless gaming device that includes periodically polls the wireless gaming device to determine whether the player has entered wagering information to be transmitted to the receiver, periodically polling the wireless gaming device to determine whether the player has entered wagering information, the transmitter transmitting the signal when the receiver polls the wireless gaming device to determine that the wagering information has entered and the wireless gaming device is periodically polled by the receiver so as to conserve power.

13. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Woodfield as applied to claim 28 above, and further in view of Franchi. This holding is maintained from prior action for cited claims, as amended, and is reiterated below with consideration of amended language. Response to applicants' argument is provided below and incorporated herein. Walker in view of Woodfield discloses/suggests claimed wireless device (supra) except infrared signals. Franchi (15:26-16:22) discloses a wireless handheld gaming device comprising infrared signals. However, infrared signals for communicating are

notoriously well-known in gaming. Infrared signals permit wireless remote direct communication. Franchi is analogous art at least due to either being in the field of applicant's endeavor or, is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an artisan at a time prior to the invention to add LCD and infrared signals as notoriously well known or as taught by Franchi to Walker each in view of Woodfield to provide wireless remote direct communication.

14. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Jacobson (5785592). This holding is maintained from prior action for cited claims, as amended, and is reiterated below with consideration of amended language. Response to applicants' argument is provided below and incorporated herein. Walker discloses/suggests claimed wireless device (supra) except a security tag, sensing apparatus as claimed. Jacobsen discloses a wireless handheld game device that is used for placing wagers teaching a security tag affixed to or included as part of wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus for increased security to ensure terminal/device does not leave gaming hall. Jacobsen is analogous prior art since Jacobsen is either in the field of applicant's endeavor of wireless wagering handheld device (fig 1-4, ref 20, 96 and description thereof) or, at least is reasonably pertinent to the particular problem with which the applicant was concerned of improved security by adding electronic tag to device/terminal to alert security if wireless wagering device passes through portal (fig. 4), so as to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977

F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an artisan at a time prior to the invention to add a security tag affixed to or included as part of wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus as taught by Jacobsen to Walker for increased security to alert security whenever terminal/device is in process of leaving gaming hall.

15. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Woodfield as applied to claim 28 above, and further in view of Jacobson (5785592). This holding is maintained from prior action for cited claims, as amended, and is reiterated below with consideration of amended language. Response to applicants' argument is provided below and incorporated herein. Walker in view of Woodfield discloses/suggests claimed wireless device (supra) except a security tag, sensing apparatus as claimed. Jacobsen discloses a wireless handheld game device that is used for placing wagers teaching a security tag affixed to or included as part of wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus for increased security to ensure terminal/device does not leave gaming hall. Jacobsen is analogous prior art since Jacobsen is either in the field of applicant's endeavor of wireless wagering handheld device (fig 1-4, ref 20, 96 and description thereof) or, at least is reasonably pertinent to the particular problem with which the applicant was concerned of improved security by adding electronic tag to device/terminal to alert security if wireless wagering device passes through portal (fig. 4), so as to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, it would have been obvious to an artisan at a time prior to the invention to add a security tag affixed to or included as part of

wireless terminal and a sensing apparatus which activates an alarm when the security tag is passed through the sensing apparatus as taught by Jacobsen to Walker in view of Woodfield for increased security to alert security whenever terminal/device is in process of leaving gaming hall.

Response to Arguments

16. Applicant's arguments with respect to claims 1-26 and 28-44 have been considered but are moot in view of the new ground(s) of rejection. The claimed invention is not adequately supported as currently claimed for wireless transmittal of encryption code since only a direct connection to a port was disclosed thereby. Also, the specification fails to provide adequate support so as to provide notice to public of wireless communication of encryption code.

17. Applicant's arguments filed 6/25/07 have been fully considered but they are not persuasive. In reply to Applicants' assertion that Walker lacks transmitting both the wager information and ID or both in encrypted form, the Office disagrees since Walker discloses same structure performing same function for same purpose as in evidence above (abstract, 3:2-13:32, 16:21-18:17, 19:2-21:22, 23:11-22, 24:15-26, 25:3-26:34, 33:9-33:32, 34:24-35:9, 37:30-41:13, figs 1-15D). Walker discloses use of cryptographic protocols via a code key to encrypt/decrypt wagering messages to ensure security between remote wireless gaming device and central computer where the messages include containing wagering information and ID so as to associate user with wager selections (3:2-13:32, 16:21-18:17, 19:2-21:22, 23:11-22, 24:15-26, 25:3-26:34, 33:9-33:32, 34:24-35:9, 37:30-41:13, figs. 1-15D). Also, the language comprising ... to transmit a signal including both the player's wager information and the identification code in an encrypted form continues to permit the wagering information and id code encrypted and transmitted as separate signals at least since comprising a signal permits multiple signals such that between the

plurality of signals the various included encrypted information is transmitted. The lack of consideration of Walker teachings as a whole is noted and not persuasive.

In response to Applicant's remark that Walker lacks a device configured to transmit an encryption code to the wireless gaming device prior to the wagering information being entered by the player, the wireless gaming device configured to encrypt the signal using the encryption code prior to transmission of the code as claimed in claim 1 and similarly claimed in independent claims 21, 28 and 44, the Office disagrees. As in evidence stated above in holding, Walker discloses use of cryptographic protocols via a code key to encrypt/decrypt wagering messages to ensure security between remote wireless gaming device and central computer whereby the wagering establishment 16 provides gaming software 22 including game program 24, banking program 25, audit program 27 and personal ID message 24 that enables game play such that the downloaded or pre-installed programs include the code key to encrypt/decrypt communication between wireless gaming device and central computer. The use of cryptographic protocols including use of an encrypt/decrypt key require that the code key either be previously stored or communicated in some manner prior to secured communication is enabled. Walker's wireless gaming device either contains a pre-stored code key communicated from central computer prior to use (16:4-19:16) or a code key is transmitted in a message like during program download (23:11-25:32, fig. 4, 8) to enable secured communication. Thus Walker includes a device configured to transmit an encryption code to the wireless gaming device prior to the wagering information being entered by the player, the wireless gaming device configured to encrypt the signal using the encryption code prior to transmission of the code as claimed. The lack of consideration of Walker teachings as a whole is noted and not persuasive.

Not forming part of any holding herein, however, submitted as further evidence under 2144.03 regarding use of code key being provided to a remote wireless device see Schneier 5871398 @ 4:47-5:18, 5:56-8:67 that indicates that the CMC (as a central computer) and HTV (as a handheld wireless remote terminal) share a secret [encryption/decryption] key.

Conclusion

18. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schneier ('408, '392) discloses handheld wireless device using encryption key transmitted by central computer to wireless device for secure communication.
20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. This is a RCE of applicant's earlier Application No. 10796851. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Sager/
Primary Examiner, Art Unit 3714